

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION

KENNETH RAY HENDRIX,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CV-01-CO-3088-E
	)	
UNITED STATES OF AMERICA, ET AL.,	)	
	)	
Defendants.	)	

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS  
OF THE MAGISTRATE JUDGE

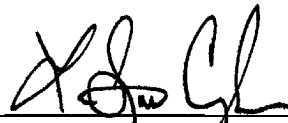
The magistrate judge filed a report and recommendation on February 24, 2005, recommending that defendants the United States of America and the United States Marshals Service and defendant James Middleton's motions for summary judgment be granted as to all of plaintiff's claims against them and that those claims be dismissed with prejudice. It was further recommended that plaintiff's claim that defendant Timothy Embry assaulted him on October 13, 2000, proceed to trial by jury. The parties were allowed twelve (12) days in which to file written objections to the magistrate judge's recommendations. No objections have been filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the magistrate judge's recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact with regard to plaintiff's claims against defendants the United States of America, the United States Marshals Service, and James Middleton. With the exception of defendant Timothy Embry, the defendants are entitled to judgment as a matter of law. Defendants the United States of America, the United States Marshals

Service, and James Middleton's motions for summary judgment are therefore due to be and the same are hereby GRANTED. All claims against defendants the United States of America, the United States Marshals Service, and James Middleton are DISMISSED WITH PREJUDICE.

Plaintiff's claim that defendant Timothy Embry assaulted him on October 13, 2000, shall PROCEED TO TRIAL BY JURY.

Done this 23rd day of March 2005.

A handwritten signature in black ink, appearing to read 'L. Scott Coogler', is written over a horizontal line.

L. SCOTT COOGLER  
UNITED STATES DISTRICT JUDGE

124153